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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/725,069	12/01/2003	Thomas B. Breen	85TP-00111	2756

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DRINKER BIDDLE & REATH
ATTN: INTELLECTUAL PROPERTY GROUP
ONE LOGAN SQUARE
18TH AND CHERRY STREETS
PHILADELPHIA, PA 19103-6996

EXAMINER

TSO, EDWARD H

ART UNIT PAPER NUMBER

2838

DATE MAILED: 12/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No. 10/725,069	Applicant(s) BREEN, THOMAS B.
Examiner Edward H. Tso	Art Unit 2838

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on ____.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-54 is/are pending in the application.
4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) Claim(s) 1-22 and 40-54 is/are allowed.
- 6) Claim(s) 23,24 and 32-39 is/are rejected.
- 7) Claim(s) 25-31 is/are objected to.
- 8) Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on ____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. ____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>2/20/2004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Information Disclosure Statement

The IDS filed 2/20/04 has been considered and placed of record. An initialed copy is attached herewith.

Specification

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The disclosure should be carefully reviewed to ensure that any and all grammatical, idiomatic, and spelling or other minor errors are corrected.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 23, 24 and 32-34 are rejected under 35 U.S.C. 102(b) as being anticipated by Nebrigic et al. (US 6,483,275). The reference discloses a battery tester wherein a measuring device including a display is electrically connected to conductors from the positive and negative terminals of the battery. The display is attached to the

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outside of the battery so the user does not have to open the battery package to test the battery. See figures 1, 4, 5.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 35-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nebrigic et al. (US 6,483,275). The reference does not disclose a fuse and the environment in which the battery is to be used. Regarding the fuse, it is a common knowledge in the art of protection that a fuse is usually used to prevent any short or overload condition to the circuit. It would have been obvious to one having ordinary skill in the art to have employed a fuse to protect the circuit from shorting out. Regarding the use of the battery in a GPS device for use in a vehicle, it is a common knowledge in the art that any portable device that requires a battery can use any type of appropriate battery and charger. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have employed this battery in any portable device including a GPS and any type of charger including the vehicle charger system, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

Allowable Subject Matter

Claims 1-22 and 40-54 are allowed. The prior art made of record fails to disclose the method and the structure of a battery tester whereas the battery's being tested is not removed from the device and the battery terminals are insulated from the terminals of the device during testing.

Claims 25-31 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The prior art made of record fails to disclose the method and the structure of a battery tester whereas the battery's being tested is not removed from the device and the battery terminals are insulated from the terminals of the device during testing.

Conclusion

Any inquiry concerning this communication should be directed to the Examiner at the below-listed number on every Tuesday, Thursday and Saturday.

Any inquiry of a general nature or relating to the status of this application should be directed to the receptionist at (571) 272-2800, Monday-Friday, 8:30am to 5:00pm, EST.

By:



EDWARD H TSO
Primary Examiner
(571) 272-2087